

# Calendar No. 1458

77TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ No. 1414

## CHARLES E. YATES, THE MOTOR FACTS SALES CO., AND THE NATIONAL AUTOMOBILE INSURANCE CO.

MAY 27 (legislative day, MAY 26), 1942.—Ordered to be printed

Mr. ROSIER, from the Committee on Claims, submitted the following

### REPORT

[To accompany H. R. 5385]

The Committee on Claims, to whom was referred to the bill (H. R. 5385) for the relief of Charles E. Yates and the Motor Facts Sales Co., having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

On page 1, line 6, strike out the figures "\$5,000" and insert "\$2,500".

The facts are fully set forth in House Report No. 2005, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 2005, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5385) to confer jurisdiction upon the United States District Court for the Northern District of California to hear, determine, and render judgment upon the claim of Charles E. Yates, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all the language after the enacting clause and insert in lieu thereof: "That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of any money in the Treasury not otherwise appropriated, to Charles E. Yates, of San Francisco, California, the sum of \$5,000; to the Motor Facts Sales Company, San Francisco, California, the sum of \$250; to the National Automobile Insurance Company, the sum of \$692.50, in full settlement of all claims against the United States for personal injuries sustained, property damage and medical expenses incurred when the motorcycle driven by Charles E. Yates was struck by an Army truck in San Francisco, California, on March 22,

1941: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

Amend the title so as to read:

"A bill for the relief of Charles E. Yates, the Motor Facts Sales Company, and the National Automobile Insurance Company."

The purpose of the proposed legislation is to pay to Charles E. Yates the sum of \$5,000, to the Motor Facts Sales Co., the sum of \$250, and to the National Automobile Insurance Co., the sum of \$692.50, for personal injuries, property damage, and medical expenses incurred by them when the motorcycle driven by Charles E. Yates was struck by an Army truck in San Francisco, Calif., on March 22, 1941.

#### STATEMENT OF FACTS

On March 22, 1941, an Army truck, on official business, was proceeding east on Greenwich Street in San Francisco, Calif., at a speed of from 20 to 30 miles per hour, and approaching intersection of said street with Gough Street; at about the same time, a motorcycle owned by the Motor Facts Sales Co., and operated by Charles E. Yates, was proceeding north on Gough Street at a speed of from 15 to 20 miles per hour, and approaching the same intersection. The two vehicles collided in the intersection, as a result of which Mr. Yates sustained abrasions of the left hand and right ankle, and injuries that necessitated the removal of the left leg, 3 inches below the knee.

Raymond Warburton, the driver of the Army vehicle, was tried in the municipal court of the city and county of San Francisco, on a charge of violating section 510 of the vehicle code. After cross-examining witnesses and Private Warburton, the court concluded: "Well, you were going too fast here, Warburton. That is what causes these serious, unfortunate intersection accidents. Here's a man lost his leg, as a result of your speeding. All right; a fine of \$10, 6 months' probation."

Your committee, after carefully considering the evidence submitted by both the claimant and the War Department, is of the opinion that the accident was caused by the sole negligence of Private Warburton, the operator of the Army truck, and therefore recommend that the bill, as introduced, be amended to provide for a direct appropriation, rather than a bill to confer jurisdiction upon the court, and it is the opinion of your committee that the only factor for consideration is the amount of compensation Mr. Yates is entitled to. Mr. Yates, prior to the accident was employed by the Motor Facts Sales Co. at a salary of \$30 per week. As a result of the accident, and loss of his leg, he is unable to assume the responsibilities and duties of his old position. It appears that the loss of his leg will handicap his earning capacity for all time to come. Appended hereto is the report of the War Department, together with other pertinent evidence.

WAR DEPARTMENT,  
Washington, September 3, 1941.

HON. DAN R. MCGEHEE,  
*Chairman, Committee on Claims, House of Representatives,*  
Washington, D. C.

DEAR MR. MCGEHEE: The War Department will interpose no objection to the enactment of H. R. 5385, Seventy-seventh Congress, a bill which would confer jurisdiction upon the United States District Court for the Northern District of California to hear, determine, and render judgment upon, notwithstanding the lapse of time or any provision of law to the contrary, the claim against the United States of Charles E. Yates, of San Francisco, Calif., for damages on account of personal injuries, sustained by the said Charles E. Yates in a collision involving the motorcycle he was driving and a United States Army truck on March 22,

1941, in the city of San Francisco, Calif., such suit to be brought within one year from the date of enactment of this act.

On March 22, 1941, at about 10:45 a. m., an Army truck, on official business, operated by an enlisted man, with another enlisted man as passenger, was proceeding east on Greenwich Street, San Francisco, Calif., at a speed of from 20 to 30 miles per hour and approaching the intersection of the said street with Gough Street. At about the same time a three-wheel delivery motorcycle owned by the Motor Facts Sales Co., 116 Valencia Street, San Francisco, and operated by Charles E. Yates, of 8 Cypress Avenue, San Francisco, was proceeding north on Gough Street at a speed of from 15 to 20 miles per hour and approaching the same intersection. The weather was clear and the roadway smooth and dry. The two vehicles collided in the intersection, thereby giving rise to the damages that are the subject of the proposed legislation.

As a result of the accident the motorcycle driven by Mr. Yates was extensively damaged; the Army vehicle was damaged to a lesser degree; and Mr. Yates sustained abrasions on the left hand and right ankle and injuries that necessitated the removal of the left leg 3 inches below the knee.

On April 9, 1941, before the investigating officer who conducted an investigation of the accident, the Government driver testified that he did not see the motorcycle until the two vehicles collided; that he gave no warning signal and heard none from the motorcycle; that there was no obstructing traffic; that he could not say who was to blame for the accident. However, in the police report, dated March 22, 1941, the day of the accident, there appears a remark to the effect that the said Government driver had stated that there was a big truck parked on the southwest corner and that he could not see the motorcycle coming from his right.

The enlisted man who was riding with the driver of the Government truck testified that he did not see the motorcycle until a moment before the impact; that he did not have time to warn the driver.

Mr. Yates, the civilian driver, testified that he did not see the Army truck nor hear any warning signal; that there was no traffic on the street at the time; that he thought he was going 15 to 18 miles per hour; that he gave no warning signal because he did not see the truck until they collided. He further testified that he was covered for hospital and medical bills by the State compensation insurance fund, but that he had no private accident insurance.

The Government driver was cited for speeding, tried in the San Francisco police court, convicted, and fined.

No claim has been filed with the War Department growing out of this accident. In view, therefore, of the inconclusive nature of the evidence of record, the Department will interpose no objection to the submission of the case to the judgment of the United States District Court for the Northern District of California.

Photostatic copy of the report of the investigating officer is enclosed for the information of the committee.

Sincerely yours,

ROBERT P. PATTERSON,  
*Acting Secretary of War.*

PRESIDIO OF SAN FRANCISCO,  
*State of California, ss:*

Personally appeared before me the undersigned authority for administering oaths, one Raymond M. Warburton, 39228067, private, Quartermaster section, C. A. S. C. 1900, Presidio of San Francisco, Calif., who, after being duly sworn according to law, deposes and says:

"I was driving a Government panel truck on Government business on Greenwich Street in an easterly direction at between 20 and 30 miles per hour on March 22, 1941, at 10:45 a. m. A box delivery motorcycle was traveling northerly on Gough Street at the time I approached the intersection of Greenwich and Gough. I did not see the motorcycle until we collided. I gave no warning signal, nor did I hear any from the motorcycle. Weather was clear and streets dry. There was no obstructing traffic. I cannot say which of us struck first. The motorcycle was thrown on its side and the driver thrown off. He was lying in the street and I went to a grocery store at the corner and asked a man to phone for an ambulance. They did so and after considerable delay an ambulance arrived.

"The police arrived and took pictures. They questioned me and in my excited condition I told them I was driving at about 30 miles per hour. Whereupon they gave me a citation to appear in traffic court April 2, 1941.

"I called the motor pool (C. A. S. C.) and they sent a substitute driver. I was accompanied by Pvt. Norman J. Box, who was along as a helper. I cannot say who was to blame for the accident. The best I can say is that it was unavoidable." Further the deponent sayeth not.

RAYMOND M. Warburton.

Subscribed and sworn to before me, this 9th day of April 1941.

B. D. WILLIS,  
Captain, Chemical Warfare Service,  
Investigating Officer.

PRESIDIO OF SAN FRANCISCO,  
State of California, ss:

Personally appeared before me, the undersigned authority for administering oaths, one Charles E. Yates, formerly of 2766 Mission Street, now of 8 Cypress Avenue, San Francisco, Calif., who, after being duly sworn according to law deposes and says:

"On March 22, 1941, about 10:45 a. m., I was driving a three-wheel delivery motorcycle for the Motor Facts Sales Co. on Gough Street, San Francisco, in a northerly direction. As I was crossing Greenwich Street at about the middle of the intersection, I was struck by an Army truck. I was thrown 30 to 40 feet and knew I was badly hurt. I was too shocked to get up, and after a while (I can't tell how long) an emergency ambulance picked me up and took me to Central Emergency Hospital. Another ambulance picked me up there later in the day and took me to Mary's Help Hospital.

"At Mary's Help Hospital they attempted to save my lower left leg, which was crushed from below the knee down. The following Tuesday, gangrene having developed, my leg was amputated about 3 inches below the knee.

"I am covered for hospital and medical bills by the State compensation insurance fund. I have no private accident insurance.

"I did not see the driver of the Army truck nor did I hear any warning signal. There was no traffic on the street at the time. The weather was clear and dry. I think I was going 15 to 18 miles per hour. I did not give any warning signal, because I didn't see the Army truck until we collided."

Further the deponent sayeth not.

CHARLES E. YATES.

Subscribed and sworn to before me this 10th day of April 1941.

B. D. WILLIS,  
Captain, Chemical Warfare Service,  
Investigating Officer.

PRESIDIO OF SAN FRANCISCO,  
State of California, ss:

Personally appeared before me the undersigned authority for administering oaths, one Norman J. Box, 6575995, private, C. A. S. C. 1927, Presidio of San Francisco, Calif., who after being duly sworn according to law, deposes and says:

"I was riding with Private Warburton on March 22d at about 10:45 a. m. As we entered the intersection of Greenwich and Gough Streets, and about the middle of the intersection, we collided with a motorcycle. I didn't see the motorcycle until a moment before we struck. I didn't have time to warn the driver. I think we were driving about 25 to 30 miles per hour. After the accident I jumped out of the truck and went to the driver of the motorcycle to see if he was injured. I saw that he had a serious leg injury and tried to make him lie down. I straightened his leg and by that time someone applied a tourniquet to his bleeding leg. I answered a lot of questions to the police and later returned to the Presidio."

Further the deponent sayeth not.

NORMAN J. BOX, Jr.

Subscribed and sworn to before me this 9th day of April 1941.

B. D. WILLIS,  
Captain, Chemical Warfare Service,  
Investigating Officer.



## MEMORANDUM TO COMMANDING OFFICER, COMPANY B, SIXTY-NINTH QUARTERMASTER BATTALION

OFFICE OF THE PRISON OFFICER,  
PRESIDIO OF SAN FRANCISCO,  
San Francisco, Calif., April 14, 1941.

In order to complete the report on the accident in which Raymond Warburton was recently involved, it is necessary for me to have a report on disciplinary measures taken in the case of Warburton by you. Will you let me have this report at your earliest convenience?

BURTON D. WILLIS,  
Captain, Chemical Warfare Service,  
Prison Officer.

201—Warburton, Raymond (Enl.), 1st Ind., JFG/jcl.

Company B, Sixth-ninth Quartermaster Battalion, Presidio of San Francisco, Calif., April 14, 1941.

To: Post prison officer, Presidio of San Francisco, Calif.

Private Warburton has been punished under the one hundred and fourth article of war.

F. J. GOSIGER,  
First Lieutenant, Quartermaster Corps,  
Commanding.

A true copy:

B. D. WILLIS,  
Captain, Chemical Warfare Service,  
Investigating Officer.

## CERTIFICATE

PRESIDIO OF SAN FRANCISCO, April 21, 1941.

This is to certify that Pvt. Raymond M. Warburton, Quartermaster section, C. A. S. C. 1900, this station, as a result of a motor-vehicle accident at Gough and Greenwich Streets, March 22, 1941, was cited for speeding (sec. 510, California Vehicle Code) and was subsequently tried in the San Francisco police courts on April 10, 1941, convicted, and fined a sum of \$10. Private Warburton could not pay this fine, and was consequently given a 2-day jail sentence. He was released Saturday, April 12, 1941.

The above information was obtained by the undersigned from the police department, city and county of San Francisco.

B. D. WILLIS,  
Captain, Chemical Warfare Service,  
Investigating Officer.

PRESIDIO OF SAN FRANCISCO, CALIF., April 24, 1941.

INVESTIGATING OFFICER'S REPORT OF MOTOR-VEHICLE ACCIDENT WHICH OCCURRED IN SAN FRANCISCO, CALIF., ON MARCH 22, 1941, INVOLVING GOVERNMENT-OWNED PANEL TRUCK, SERVICE NO. W-21413, DRIVEN BY RAYMOND M. WARBURTON, 39228067, PRIVATE, QUARTERMASTER SECTION, CASC UNIT 1900, PRESIDIO OF SAN FRANCISCO, CALIF., AND A THREE-WHEEL HARLEY-DAVIDSON DELIVERY MOTORCYCLE, LICENSE NO. 9914, CALIFORNIA, DRIVEN BY CHARLES E. YATES, 8 CYPRESS AVENUE, SAN FRANCISCO, CALIF., AND OWNED BY MOTOR FACTS SALES CO., 116 VALENCIA STREET, SAN FRANCISCO, CALIF.

## FINDINGS

1. That the driver of the Government vehicle, Private Raymond M. Warburton, 39228067, Quartermaster section, CASC Unit 1900, this station, is an authorized driver of Government motor vehicles, and was on official duty at the time of the accident.

2. That Private Warburton, driving aforesaid vehicle, W-21413, was proceeding east on Greenwich Street en route to Wawona Street, San Francisco; that Charles E. Yates, driving Harley-Davidson motorcycle, license No. 9914,

California, was proceeding north on Gough Street, San Francisco, Calif.; that both drivers of the aforesaid motor vehicles were guilty of careless driving, in that both drivers testified that the day was clear, vision unobstructed, no traffic, and that neither saw the other until they collided and therefore, neither driver used due precaution upon entering the intersection of Greenwich and Gough Streets; that the collision occurred at the intersection of Greenwich and Gough Streets, San Francisco, Calif., as shown on standard Form No. 27 herewith, and verified by police pictures, also herewith; that the driver of the Army vehicle was driving in excess of speed laws, as attested by his admission of a speed of 20 to 30 miles per hour, and police photos attached hereto show skid marks of approximately 39 feet, all skid marks show only after the collision; that there is no evidence to show that the accident, on the part of Private Warburton, was caused through depredation, willful misconduct, or such reckless disregard of property rights as to carry implication of guilty intent; however, from the evidence obtained, his case is considered as one of negligence.

3. That the damage to the Government vehicle is as shown on Form No. 27 herewith.

4. That the evidence in this case indicates that both parties were equally at fault for the accident. Private Warburton should be held pecuniarily responsible for the damage to the Government vehicle which he was driving, and in charge of, at the time of the accident.

5. That Mr. Charles E. Yates, 8 Cypress Avenue, San Francisco, Calif., was injured as a result of this accident. His injuries consisted of minor cuts left hand, surgical removal of left leg 3 inches below knee.

6. Disciplinary action has been taken against Private Warburton under the one hundred and fourth article of war.

#### RECOMMENDATIONS

1. That the driver of the Government vehicle, Private Raymond M. Warburton, 39228067, Quartermaster section, C. A. S. C. Unit 1900, this station, be held partly responsible for the accident, and fully responsible for the damage to the Government vehicle for which he was in charge at the time of the accident.

2. That further action be taken under the provisions of paragraph 8, A. R. 35-6640.

3. That, in the event a claim is filed against the United States, such claim be referred to a board of officers convened under the appropriate Army regulations.

BURTON D. WILLIS,  
Captain, Chemical Warfare Service,  
Investigating Officer.

Headquarters, Presidio of San Francisco, Calif., April 25, 1941.

Approved:

GEORGE MUNTEANU,  
Lieutenant Colonel, Infantry,  
Commanding.

PRESIDIO OF SAN FRANCISCO, CALIF., May 5, 1941.

MEMORANDUM TO PVT. RAYMOND M. WARBURTON, 39228067, QUARTERMASTER  
SECTION C. A. S. C. 1900, THIS STATION

1. You are advised that as surveying officer on a report of survey dated April 29, 1941, \$538.07 covering damages to a Dodge panel delivery truck, No. W-21413, incurred in an accident on March 22, 1941, I propose to recommend to the commanding officer that you be held responsible for the damages to the vehicle as follows:

Parts	\$10. 00
Shop stock	2. 00
Overhead	2. 96
Total	14. 96

2. This information is submitted in compliance with paragraph 10b (10), A. R. 35-6640 to give you an opportunity to examine the evidence and submit any reply thereto which you may desire.

JACK C. BAKER,  
Captain, Corps of Engineers,  
Surveying Officer.

PRESIDIO OF SAN FRANCISCO, CALIF., May 5, 1941.

I have this day examined the evidence which accompanies the report of survey on Dodge panel delivery truck, No. W-21413, and have no additional evidence to submit, or any reply to make thereto.

RAYMOND M. WARBURTON, 39228067,  
Private, Quartermaster Section, C. A. S. C. 1900.

HEADQUARTERS, PRESIDIO OF SAN FRANCISCO,  
OFFICE OF THE COMMANDING OFFICER,  
Presidio of San Francisco, Calif., May 8, 1941.

Subject: Report of survey, Quartermaster property April 29, 1941, \$538.07.  
To: Commanding officer, Headquarters and Headquarters Detachment, C. A. S. C. Unit 1900, Presidio of San Francisco, Calif.

1. Pursuant to paragraphs 11a (1) and (5), A. R. 35-6640, March 17, 1938, it is desired that Pvt. Raymond M. Warburton, 39228067, your organization, be notified of the approved recommendations on the attached report of survey, that he be given an opportunity to inspect all evidence in the case, and that this headquarters be informed by endorsement hereon of his desires in connection therewith.

2. In the event Private Warburton accepts the conditions of the survey, proper statement of charges will be accomplished and a copy thereof furnished the accountable officer.

By order of Lieutenant Colonel Munteanu.

J. R. DWYER,

First Lieutenant, Adjutant General's Department,  
Adjutant.

1 Incl.—R/S in trip. 141.8. 1st Ind.

Headquarters and Headquarters Detachment, C. A. S. C. Unit No. 1900, Presidio of San Francisco, Calif., May 14, 1941.

To: Commanding Officer, Presidio of San Francisco, Calif.

1. Private Warburton accepts the conditions of the survey.
2. Statement of charges has been accomplished.

For the unit commander:

R. B. KEPHART,

Second Lieutenant, Quartermaster Corps.

#### AFFIDAVIT OF CHARLES E. YATES

STATE OF CALIFORNIA,  
City and County of San Francisco, ss:

Charles E. Yates, being first duly sworn, deposes and says:

That I am 28 years old, unmarried, and reside at 8 Cypress Avenue, San Francisco, Calif., which is the residence of my brother. I am a citizen of the United States of America, and prior to the happening of an accident I was employed by the Motor Facts Used Car Mart, located at 116 Valencia Street, San Francisco, for 2 years, as a general service man. My wages were \$30 per week. I am a member of the Garage Employees' Union, Local No. 665.

On Saturday, March 22, 1941, at about 10:30 a. m., I was driving a motorcycle belonging to the Motor Facts Used Car Mart, on my way to Mill Valley, Calif., where I was to pick up a used car for the Motor Facts Used Car Mart. I was driving a 1934 Harley-Davidson motorcycle and proceeding north on Gough Street, in San Francisco, at about 15 to 18 miles per hour and had my motorcycle under complete control at all times and was traveling on the right side of Gough Street. As I reached the intersection of Gough Street and Greenwich Street I slowed my motorcycle down to about 15 miles per hour before entering the intersection and started to proceed as usual. After I had entered the intersection a United States Army truck, 1½ tons, operated by a soldier named Raymond Warburton, came from my left, going east on Greenwich, and collided with my motorcycle, the front bumper of his truck hitting my left leg. As a result of this impact I was thrown approximately 35 feet.

The truck was traveling about 30 to 35 miles per hour and at no time did the soldier reduce his speed until after he struck me. As a result of the impact the Army truck left skid marks for a distance of 39 feet 9 inches with the right front

wheel and 37 feet with the left wheel. There were no skid marks left prior to the impact. My motorcycle was knocked approximately 45 feet east from the point of impact.

After the accident the police came and took charge. The police arrested the soldier and cited him for a traffic violation and I understand that his case came up for trial on the 10th day of April 1941, before Hon. Herbert C. Kaufman, in the municipal court of the city and county of San Francisco, and he was found guilty of violating section 510 of the vehicle code. I was not arrested nor was I given any citation for any traffic violation.

After the accident I was taken to the Emergency Hospital where I was given first aid and then transferred to Mary's Help Hospital by the King Ambulance Service. On March 26, 1941, after discussions with many doctors, my left leg was amputated below the knee. Up to the present time I have been unable to engage in any gainful occupation.

I was in no way responsible for this accident and place the entire responsibility upon Private Raymond Warburton. I have several disinterested witnesses who substantiate my view.

I therefore plead that I be given an opportunity to place my case before a court.

CHARLES YATES.

Subscribed and sworn to before me this 14th day of October 1941.

[SEAL]

LOUIS WIENER,

*Notary public in and for the city and county of San Francisco, State of California.*

#### STATEMENT OF EXPENSES INCURRED RE CHARLES E. YATES' CLAIM

King Ambulance Co.....	\$5. 00
Mary's Help Hospital.....	335. 62
Dr. A. Haim.....	21. 00
Auger Artificial Limb Co.....	164. 63
Dr. C. L. Callendar.....	166. 25
Loss of employment, \$30 a week from Mar. 22, 1941, to Nov. 1, 1941.....	960. 00
Loss of motorcycle, approximately.....	250. 00
Total.....	1, 902. 50

#### STATEMENT OF ARTHUR HAIM, M. D., TO MR. CHARLES YATES, FOR PROFESSIONAL SERVICES

SAN FRANCISCO, November 15, 1941.

Consultation and report in re injury of Mar. 22, 1941.....	\$12. 50
2 hospital visits.....	3. 50
1 bacteriologic examination.....	5. 00
Total.....	21. 00

Received payment:

DR. A. HAIM.

#### STATEMENT OF C. LATIMER CALLANDER, M. D., TO CHARLES YATES, FOR PROFESSIONAL SERVICES RENDERED IN CONNECTION WITH INJURY OF MARCH 22, 1941

SAN FRANCISCO, CALIF., November 7, 1941.

March 22, 1941: Open operation on three major fractures, both bones in right leg (possibly 20 small breaks). Repair of several tendons and muscles and large cast applied. Ankle dislocation reduced and several fractures about ankle reduced by pin traction and plate application. Thirty-one hospital visits, seven office visits, total \$166.25.

Received payment:

C. L. CALLANDER.



## STATEMENT OF KING AMBULANCE CO., RE MR. CHARLES E. YATES

SAN FRANCISCO, CALIF., November 12, 1941.

March 22, 1941: Ambulance service from Central Emergency Hospital to Mary's Help Hospital, \$5.  
Paid.

## STATEMENT OF THE AUNGER ARTIFICIAL LIMB CO.

SAN FRANCISCO, CALIF., July 9, 1941.

Sold to Charles Yates, 2766 Mission Street, San Francisco, Calif.:

1 artificial limb-----	\$150.00
Sales tax-----	1.50
Stump socks and crutch tips-----	12.75
Sales tax-----	.38
Total-----	164.63

Paid.

## STATEMENT OF MARY'S HELP HOSPITAL FOR SERVICES RENDERED MR. CHARLES YATES

SAN FRANCISCO, CALIF., November 18, 1941.

Room, board, and general nursing:

Room: 14 days at \$5, from Mar. 27 to Apr. 10-----	\$70.00
Ward:	
5 days at \$3.50, from Mar. 22 to Mar. 27-----	17.50
14 days at \$3.50 from Apr. 10 to Apr. 24-----	49.00
Use of operating room, service and articles used (2)-----	45.00
Anesthesia and anesthetist's fee (2)-----	25.00
Blood transfusions (2)-----	20.00
Dressings and treatment trays-----	5.05
Intravenous trays, glucose-----	2.00
Pharmacy charges-----	14.75
Routine laboratory fee and special laboratory fee-----	33.50
X-ray examination-----	28.00
Gas gangrene antitoxin-----	14.00
Smith Petersen pin-----	1.50
Lane screws and plates-----	5.00
Crutches-----	1.75
Steinmann pin-----	2.50
State sales tax-----	1.07
Total-----	335.62

O'CONNOR, NEUBARTH & MORAN,  
San Francisco, March 23, 1942.

Re H. R. 5385, Chas. E. Yates.

Hon. THOMAS ROLPH,  
House of Representatives,  
Washington, D. C.

DEAR MR. ROLPH: In reply to your letter of March 21 the statement of Chairman McGehee is correct to the effect that the motorcycle involved belonged to the Motor Facts Sales Co. at a loss of \$250. Six hundred and ninety-two dollars and fifty cents was paid, not by the State compensation insurance fund, but by the National Automobile Insurance Co., who carried the compensation on Mr. Yates. It is satisfactory that these claims be so included.

I assume that this money will be taken out of the \$5,000 coming to Mr. Yates. If possible I would appreciate if the above sums would be paid in addition to the \$5,000. However, if this cannot be done would suggest that the amendments be made as suggested.

Very truly yours,

HARRY J. NEUBARTH.

## AFFIDAVIT OF C. LATIMER CALLANDER, M. D.

STATE OF CALIFORNIA,

*City and County of San Francisco, ss:*

C. Latimer Callander, being first duly sworn, deposes and says:

That I am a physician and surgeon duly licensed to practice my profession in the State of California; that I am the physician and surgeon who attended and is still attending Charles E. Yates; that said Charles E. Yates first came under my observation on or about the 22d day of March 1941; that I first saw said Charles E. Yates at the Central Emergency Hospital in the city and county of San Francisco and that I immediately sent said Charles E. Yates to Mary's Help Hospital in the city and county of San Francisco, where I performed an operation upon him; that at said time said Charles E. Yates had a badly injured right leg and foot and ankle and a moderately injured left hand; that said Yates had 3 major fractures in the right leg in which there were at least 20 fragments; in addition thereto there was a complete avulsion of the ankle and the ankle was compounded and 2 of the fractures of the leg were compounded; that the anterior tibial tendon and the posterior tibial tendon were cut through much of their belly portions and through their tendinous portions as well and many vessels were injured; that I placed pins in the proximal, middle, and distal fragments and incorporated in a cast; all the muscles and tendons were sutured and a large amount of hemorrhage was stopped; the ankle dislocation was reduced and the fractures about the ankle were held with pins; the foot was put up in a cast and the leg was put into a cast as far as the knee; I prescribed blood transfusions because of Yates' great loss of blood and because of said Yates' poor condition; the leg did not live and on account of gangrene setting in I removed the leg at the proximal fracture line, leaving a usable stump which on the 9th day of April 1941, was still draining somewhat; the stump is about 6 inches in length, which is sufficient to get a good prosthesis; the gangrene was ordinary gangrene and turned out not to be gas gangrene infection; I look for an uncomplicated recovery with no more permanent disability than one would have with a leg off in the upper third; prior to amputating said Yates' leg I called into consultation Dr. Arthur Haim, who is likewise a practicing physician and surgeon in the State of California.

C. LATIMER CALLANDER.

Subscribed and sworn to before me this 10th day of October 1941.

[SEAL]

CLARENCE J. DUNLEAVY,

*Notary Public in and for the City and County of San Francisco, State of California.*

My commission expires April 17, 1944.

## STATEMENT OF PATRICIA OLSEN, 8 IMPERIAL PLACE, SAN FRANCISCO, APARTMENT 8

SAN FRANCISCO, CALIF., April 17, 1941.

I am 11 years old, my birth day was September 28, 1929. I am in the sixth grade at the Sunshine School.

On March 22, 1941, at around 10:30 a. m., I was standing on Greenwich, just opposite Imperial Place. I was just standing there and waiting since we were expecting some company—I had just looked down Greenwich, toward Gough Street, when I saw an Army truck and a motorcycle about to bump into each other. I saw that the motorcycle had slowed down upon coming to the intersection and entered the intersection first. I saw that they were going to hit and I saw both the motorcycle and the Army truck try to turn away to avoid the accident. The motorcycle was about in the middle of the street when it was hit broadside. I am sure that the driver of the Army truck did not slow down at the intersection and made no attempt to slow down or stop until he was almost upon the motorcycle.

I saw the motorcycle hit by the Army truck and saw the man on the motorcycle thrown from the motorcycle and hit the sidewalk on the north side of Greenwich—as he was being thrown I heard him scream.

I have read the above two pages and they are true and correct to the best of my knowledge.

PATRICIA OLSEN,  
Mrs. (Mother) A. B. OLSEN.

Witness: H. Mortimer.

IN THE MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DIVISION No. 11, HON. HERBERT C. KAUFMAN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA V. RAYMOND WARBURTON

Misdemeanor, to wit: Violating section 510 of the vehicle code.

THURSDAY, APRIL 10, 1941.

(Defendant personally present.)

The COURT. Raymond Warburton. What is your plea to the charge of violating section 510?

The DEFENDANT. At the time of the accident \* \* \*.

The COURT. Better plead not guilty.

Sidney Buckman, called as a witness on behalf of the people and, having been first duly sworn, testified as follows:

By Mr. WALL.

Q. What is your name?—A. Sidney Buckman.

Q. Where do you reside?—A. 23 Lamartine Street.

Q. You are a police officer of the city and county?—A. Yes.

Q. Did you arrest the defendant in this case?—A. I gave him a citation.

Q. On what day?—A. March 22.

Q. This year?—A. Yes.

Q. What time was it?—A. About 10:30, a quarter to 11 in the morning.

Q. Where did you give him the citation?—A. Gough and Greenwich.

Q. State the circumstances under which you issued the citation.—A. The defendant had been driving east on Greenwich Street and struck a motorcycle that was traveling north on Gough Street and the defendant admitted traveling between 25 to 30 miles an hour, but that there was a truck, a milk truck parked on the southwest corner which obscured his vision. He also said that absolved him of the blame for the accident, because he couldn't see up the street, he didn't see this motorcycle coming.

Q. You were in a police car at the time.—A. What?

Q. Were you in a police car at the time?—A. No—yes; I was in a police car.

Q. Who were with you?—A. Officer Cosgrove. He traveled 27 feet into Gough Street and the motorcycle had gone 15 feet into Greenwich Street. After the impact he left a skid mark of 39 feet 9 inches with the right front wheel; 37 feet with the left wheel; no skid marks prior to the collision. He struck the motorcycle, knocked it 45 feet east from the point of the impact—that would be up Greenwich Street. And the boy riding the motorcycle suffered the loss of a foot.

Q. All this happened here in the city and county of San Francisco.—A. Correct.

The COURT. Any questions?

Mr. NEUBARTH. No questions.

The COURT (to the defendant). You want to tell me your story? Take the stand.

Private Raymond Warburton, called as a witness on behalf of the defense and having been first duly sworn, testified as follows:

By the COURT:

Q. Give your name and address to the reporter.—A. Private Raymond Warburton.

Q. Private Raymond Warburton, what is your address?—A. I belong to the Corps Area Service Company, Presidio.

Q. The Ninth Corps area?—A. That is right.

Q. All right. Now let us have your version of what happened here.—A. Happened so fast there was nothing to tell. There he was, there were I.

Q. Is that all you know about it?—A. That is all, plain speaking, that is about what it was.

Q. How fast were you going just before this?—A. I really don't know.

Q. You don't know how fast you were going.—A. No, to tell you the truth I don't know how fast I was going, because about half a block away before I was entering the intersection I slowed down and vibrated my truck into third gear.

Q. Were you driving a truck?—A. I was driving a Government truck, a panel truck.

Q. How fast did you go before you entered the intersection?—A. I couldn't exactly say.

Q. How long have you been driving?—A. I have driven for the last 10 years. My first accident.

Q. First speeding offense?—A. First speeding offense.

The COURT. Any questions, Mr. District Attorney?

Cross-examination by Mr. WALL:

- Q. Did you see the other car before the collision?—A. Before the collision?  
Q. Yes.—A. No, sir; the motorcycle, I didn't see him until he was right there, just like he dropped out of the sky.  
Q. How fast were you traveling at the time?—A. I couldn't say.  
Q. Any maximum speed?—A. Pardon?  
Q. State any maximum speed?—A. I don't know.  
Q. You don't know. And were you in a rush to get any place?—A. I wasn't in a hurry.  
Q. Anybody with you at the time?—A. Another private, he is what you call a riding swamper—helper, rather.  
Q. How heavy a truck is this, if you know?—A. A panel job, about a ton and a half.  
Q. A ton and a half. How far did you travel after the accident?—A. I stopped right there.  
Q. Within how many feet, would you say?—A. Well, I didn't measure, anything like that, I was too excited. The first thing I did, I looked at the man was hurt there, went to the phone and called an ambulance.

By the COURT:

- Q. You say you stopped right there. You left 39 feet of skid marks, you didn't stop right there.—A. Well, he asked me if I skidded.  
Q. You skidded, didn't you?—A. I imagine I did.  
Q. You remember you skidded.—A. Certainly.

By Mr. WALL:

- Q. The brakes on your truck in good condition?—A. I think so.  
Q. How long have you been driving?—A. Ten years.  
Q. What was the weather condition at the time?—A. Clear vision.  
Q. Streets dry?—A. Yes, sir.  
The COURT. Anything further? All right, step down. Well, you were going too fast here, Warburton. That is what causes these serious, unfortunate intersection accidents.  
Mr. NEUBARTH. The other man had his leg cut off as the result of the accident.  
The COURT. Here is a man lost his leg as the result of your speeding. All right, a fine of \$10, 6 months' probation.

STATE OF CALIFORNIA,

*City and County of San Francisco, ss:*

I hereby certify that the foregoing is a full, true, and correct transcript of the shorthand notes taken by me in the above-entitled case and that the same is a full, true, and correct statement of the testimony and proceedings in said case on the above date.

DANIEL V. DREW,  
*Official Phonographic Reporter,  
Municipal Court, Division No. 11.*

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